

**REMARKS/ARGUMENTS**

The Examiner has objected to claims 1 and 17 noting that the limitation "between 5-10 microns" should read "between 50-100 microns". Applicant has amended both claims 1 and 17 as required by the Examiner.

The Examiner has objected to claims 5, 6, 14, 15 and 19-21 as failing to comply with the revised amendment practice set forth in 37 C.F.R. § 1.121.

With this Amendment, applicant has included the withdrawn claims in the current listing of claims in the application thereby overcoming the objection.

The Examiner has rejected claims 1, 3, 4, 7-11, 13 and 16-18 under 35 U.S.C. § 103 as unpatentable over Stanwood in view of Palestrant.

According to the Examiner, Stanwood discloses an extendable misting apparatus.

The characterization of Stanwood as disclosing a misting apparatus is clearly erroneous. Rather, Stanwood expressly discloses a mechanism for producing jets of liquid for use in watering or cleaning throughout an area.

The Examiner also relies on Stanwood's disclosure of the housing 10 including a recess adapted to receive the circular cap 20 formed with a plurality of webs that define a number of ports 21 through which the water jets are emitted. The Examiner also notes the hollow piston rod 27 and spring 34.

Independent claim 1, as amended, requires that the spring be located in a chamber defined by and engaged with the piston and the bearing block. In Stanwood, the coil spring 34 is located in a chamber defined by the piston flange 31 and a cylindrical member 32 that surrounds the spring. To the extent that the combination of body 15 and collar 23 which are fixed to the housing 10, maybe regarded as a bearing block, it is readily apparent that the spring 34 does not

engage the body 15 or collar 23. Moreover, it would not have been obvious to eliminate the member 32 since it rotates along with the piston or plunger as the latter is rotated and indexed by the cam surfaces (see Fig. 6), and the lip 33 of member 32 acts as a bearing against the lower surface of the fixed collar 23. As noted in Stanwood, if the bearing lip 33 were not present, the spring would be seated against the fixed member 23 and would tend to wind up without turning, developing undesired torsion. Thus, it would not have been obvious to one of ordinary skill in the art to have removed member 32 for purposes of allowing spring 34 to contact the fixed collar 23, i.e., the reference teaches away from the claimed construction.

The Examiner proposes to modify Stanwood to incorporate the misting nozzles of Palestrant which have an orifice size to deliver droplets between 5 and 100 microns in diameter.

Clearly, it would not have been obvious to one of ordinary skill in the art to have modified Stanwood to incorporate the misting nozzles of Palestrant. The entire disclosure in Stanwood is geared towards a mechanism that both rotates and reciprocates the plunger so that successive jets of liquid are emitted from different successive ports 21 in different directions. To modify Stanwood as proposed by the Examiner would completely destroy the Stanwood device in that a misting nozzle which distributes mist in essentially all directions would not require the complex reciprocating/rotating device in Stanwood. Nor would the modified device be able to function as intended by Stanwood.

For the above reasons, it is respectfully submitted that the proposed combination of Stanwood and Palestrant is necessarily based upon impermissible hindsight gained from applicant's disclosure and, in any event, the modified device does not meet the requirements of claim 1 as amended herewith.

With regard to dependent claim 3, the ports 21 in Stanwood are never concealed even when retracted as clearly apparent from Figure 1 of the drawings.

With regard to independent claim 8, Stanwood does not disclose a misting head including at least one misting nozzle secured at one end of a piston rod mounted for reciprocating movement in the housing between extended operative and retracted inoperative positions, with the at least one misting nozzle having an orifice sized to deliver water droplets having a maximum cross-sectional dimension of between 5 and 100 microns. Nor are the ports 21 concealed when in a retracted position, again as clearly shown in Figure 1. The Palestrant reference also fails to remedy the deficiency in Stanwood regarding the latter limitation.

Here again, the combination of Stanwood and Palestrant is necessarily based upon impermissible hindsight and therefore, is respectfully submitted that the combination of references is equally ineffective to render prima facie obvious the subject matter of independent claim 8 as well as dependent claims 9-11, 13 and 16.

Regarding independent claim 17, the claim is similar to independent claim 1 in the sense that it requires the coil spring to be arranged about the piston rod and engaged with the piston and the bearing block. This arrangement is neither disclosed nor suggested by the applied prior art for the same reasons presented above with respect to claim 1. In addition, the references as combined do not teach concealment of misting nozzles in the retracted position. Moreover, and in any event, the combination of references is also improper for the reasons stated above.

Claim 18 which depends from claim 17, is patentable in its own right in that in Stanwood the cover plate 20 does not rest on a portion of the radial flange of the housing when a misting head is in the retracted position as apparent from Figure 1.

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It is respectfully submitted that all of the remaining application claims are in condition for immediate allowance and in addition, entry of the proposed Amendment is requested, noting that the amendments were necessitated by the newly grounds of rejection in the final rejection.

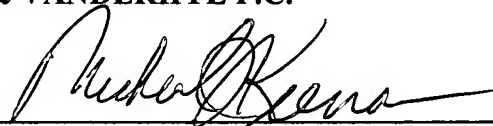
If any small matters remain outstanding, the Examiner is encouraged to telephone the undersigned so that the prosecution of this application can be expeditiously concluded.

The Commissioner is hereby authorized to charge any deficiency in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Account No. 14-1140.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By: \_\_\_\_\_



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